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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/549,922	11/07/2006	Liam Cole Wright	A-9720	7958
7590 12/30/2008				
Martin P Hoffman Hoffman Wasson & Gitler 2461 South Clark Street Suite 522 Crystal Center 2 Arlington, VA 22202			EXAMINER NEWAY, BLAINE GIRMA	
			ART UNIT 3728	PAPER NUMBER
			MAIL DATE 12/30/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/549,922

Applicant(s)

WRIGHT, LIAM COLE

Examiner

BLAINE G. NEWAY

Art Unit

3728

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 July 2008.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 6-8 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 6-8 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 20 September 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-8508)
Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

Claim Objections

1. Claim 6 is objected to because of the following informalities: the limitation "a hinge line" in line 5 should be changed to "a fold line" because to form the second compartment between two portions of the pouch, the pouch need to be folded at a fold line (not a hinge line) and the two ends need to be heat sealed. Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 6 and 7 are finally rejected under 35 U.S.C. 102(b) as being anticipated by Curtis (US 3,394,870).

Regarding claim 6, Curtis discloses a smoker's pouch (for carrying material capable of being smoked) formed from multiple layers of material; and having at least a first compartment 14 formed between adjacent layers of material and a second compartment 15 formed between two portions of the pouch overlapping due to a fold in the pouch defined by a fold line, wherein the first compartment is releasably sealable (by rolling the top) to retain material capable of being smoked or smoking accoutrements in the compartment. The Examiner notes that the first and second compartments will have substantially the same dimensions if the top of the first compartment 14 is rolled

up to the top of compartment 15 (figures 3-6 ; column 2, lines 25-35, lines 49-52 and lines 60-68).

Regarding claim 7, Curtis further discloses first compartment 14 being sealed by a seal (i.e. a fold or roll) having respective formations (i.e. flaps located at the top of first compartment 14) engageable with each other by being folded or rolled, to releasably seal first compartment 14 associated with adjacent layers of material forming the pouch (figure 5-6 column 2, lines 25-35).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
 2. Ascertaining the differences between the prior art and the claims at issue.
 3. Resolving the level of ordinary skill in the pertinent art.
 4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
6. Claim 8 is finally rejected under 35 U.S.C. 103(a) as being unpatentable over Curtis (US 3,394,870) in view of Ausnit et al (US 4,832, 505) or Ausnit herein.

Curtis further discloses the seal having a first formation i.e. a first flap and a second formation i.e. a second flap (figure 3). However, Curtis fails to disclose: the first

formation having a female channel with resilient sidewalls having a flange on an upper portion of at least one side wall that extends at least partially toward the opposing sidewall; and the second formation having a male member with an enlarged portion receivable between the opposed sidewalls of the channel and adapted to be retained therein until the application of a force large enough to release the male member therefrom. Ausnit teaches a reclosable zipper 22 having a female channel 24 with resilient side walls having a flange on an upper portion of at least one side wall that extends at least partially toward the opposing side wall, and a male member 23 with an enlarged portion receivable between the opposed side walls of the female channel and adopted to be retained therein until the application of a force large enough to release the male member (figure 2 and column 2, lines 56-61). It would have been obvious to one of ordinary skill in the art have substituted a zipper as, for example, taught by the Ausnit reference for the foldable flaps of the Curtis device wherein so doing would amount to mere substitution of one functionally equivalent sealing means for another within the same art and the selection of any of these sealing means would work equally well in the Curtis device.

Response to Arguments

7. Applicant's arguments filed 7/25/08 have been fully considered but they are not persuasive. Contrary to Applicant's argument, the first and second compartments of Curtis can have substantially the same dimensions if the top of the first compartment 14 is rolled up to the top of compartment 15.

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to BLAINE G. NEWAY whose telephone number is (571)270-5275. The examiner can normally be reached on M-F 7:30 AM- 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on 571 272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/JILA M MOHANDESI/
Primary Examiner, Art Unit 3728

BGN
12/22/2008